

STATE OF NORTH CAROLINA COUNTY OF AVERY

The Avery County Board of Commissioners met in Regular Session on Monday, July 7, 2008 at 3:30 p.m. in the Commissioners Board Room, Avery County Administrative Complex, Newland, NC.

Members Present: Kenny Poteat, Chairman; Susan Pittman, Vice-Chair; Phyllis Forbes; and Scott Heath.

Members Absent: Dan South

Call To Order

Chairman Poteat called the meeting to order at 3:30 p.m.

Chairman Poteat offered prayer.

Public Comments

Terry Ballard, Chairman of the Board of Directors of Avery County Rescue Squad, spoke to the Board regarding purchase of a used EMS vehicle for the Avery County Rescue Squad from Avery County. Jerry Turbyfill, Director of Avery County EMS, had told Mr. Ballard to send a letter to Robert Wiseman, County Manager. Mr. Ballard stated that a letter was sent to the County Manager. Mr. Ballard advised that his understanding was that Linville Rescue had been offered this vehicle but did not want it and that the vehicle would benefit the Avery County Rescue Squad because the unit they are using at this time is certified but has high mileage. Chairman Poteat stated that the Board cannot make a commitment right now but that it was being looked into at this time. The County Manager advised, to the best of his knowledge, that this unit had not been offered to Linville and that possibly this unit would only be a chassis and not the full box unit. Chairman Poteat stated that the County Manager would be in touch with Mr. Ballard regarding this issue and that Mr. Ballard's request had been heard and would be considered.

Rachel Deal spoke to the Board about the Friends of the Shelter and the new animal shelter. Gifts were given to the Commissioners from the Friends of the Shelter. A rendering of the building was handed around for each Commissioner to see. Ann Thompson spoke about the new animal shelter and about the money being raised for the new animal shelter.

Board Appointments

Mayland Community College Board of Trustees

The County Manager stated that the term of James Burleson has expired as of June 30, 2008. Ms. Forbes had been completing a term for Mr. James Burleson. Mr. Ronald Kates, Chairman of the Board of Trustees for Mayland Community College, had requested that Ms. Forbes be reappointed for a four year term to the Board of Trustees for Mayland Community College.

Motion by Susan Pittman and second by Scott Heath to reappoint Phyllis Forbes for a four year term to the Board of Trustees for Mayland Community College. Motion unanimous with those voting (3-0).

Region D Development Corporation Appointments

The County Manager advised that there were four persons on the Region D Development Corporation Board; Tommy Burleson, Community Organization; Robert Wiseman, Local Government; Tena Trice, Private Lending Institution; and Bill Close, Business Organization. The County Manager stated there was one application other than the individuals named that wanted to be considered for this board; Mr. Daryl Smith. The County Manager advised that the Clerk had spoken with Mr. Bill Close and Mr. Close had requested that he not be considered for reappointment due to time constraints.

Motion by Susan Pittman and second by Phyllis Forbes to appoint Robert Wiseman, Local Government; Tommy Burleson, Community Organization; Tena Trice, Private Lending Institution and Daryl Smith, Business Organization to the Region D Development Corporation Board as representatives for Avery County. Motion unanimous with those in attendance (4-0).

Public Hearing – Rural Operating Assistance Program (ROAP)

Motion by Susan Pittman and second by Phyllis Forbes to go out of Regular Session and into a time of Public Hearing at 3:50 p.m. for the Rural Operating Assistance Program (ROAP). Motion unanimous with those in attendance (4-0).

Linda Cuthbertson, director of Avery County Transportation, stated that Avery County is applying for \$126,318.00. This is an increase from last year of \$30,797. This money is 100% Federal and State given to Avery County to be used in the following ways: elderly, disabled, employment programs and anyone that is not a human service agency client. Phyllis Forbes questioned if someone needed transportation to a job could Avery Transportation handle that. Ms. Cuthbertson stated that 13 persons had been transported recently to work but there were priority orders as to transporting workers and that someone with a kidney dialysis appointment would have priority over someone that needed to be transported to work.

Rachel Deal commented that the Avery County Transportation exceeded the transportation services in other surrounding counties and that the Avery County Transportation was doing a great job.

Susan Pittman stated that she felt Avery County Transportation was doing a great job. There were no further comments.

Chairman Poteat declared that the Public Hearing be closed at 3:56 p.m. and to go back into a time of Regular Session.

Motion by Phyllis Forbes and second by Scott Heath to approve the Rural Operating Assistance Program Application for the Fiscal Year 2009. Motion unanimous with those in attendance (4-0)

Scott Heath asked what percentage of the total budget this would be. Ms. Cuthbertson stated it would be around 18% of the budget. Ms. Cuthbertson stated that the Avery County Transportation had always gotten this funding it was just a matter of filling out the application.

NCACC Voting Delegate

Motion by Susan Pittman and second by Scott Heath to appoint Kenny Poteat as the NCACC Voting Delegate at the NCACC Annual Conference. Motion unanimous with those voting (3-0).

Tax Collector Report – Mary Daniels

Mary Daniels, Tax Collector, presented the total collection for the month of June which is \$86,678.51. The Tax Collector stated that she had been concerned about the taxpayers in Avery County and had been accepting payments more this year than ever. Phyllis Forbes commented that she was very glad that the Tax Collector was willing to work with the residents of Avery County. The Tax Collector advised that a write-off was done for the years of 1993, 1994 and 1995 totaling \$19,561.89.

Motion by Phyllis Forbes and second by Susan Pittman to approve the Tax Collector report as presented. Motion unanimous with those in attendance (4-0).

The County Manager stated that Avery County would be in the top 3-4% as far as the tax collection rate is concerned with all the counties in North Carolina.

Tax Assessors Report – Phillip Barrier

Phillip Barrier, Tax Assessor, stated that the Real and Personal Releases would be presented at the next meeting because the information that the Board has is not correct.

Motor Vehicle Refund

The Motor Vehicle Refund for June 2008 was County tax of \$1.51 and Fire tax of \$0.16.

Motion by Susan Pittman and second by Phyllis Forbes to approve the Motor Vehicle Refund report as presented. Motion unanimous with those in attendance (4-0).

Motor Vehicle Release

The Motor Vehicle Release for June 2008 was County Tax \$26.92 and Fire Tax \$2.90.

Motion by Phyllis Forbes and second by Scott Heath to approve the Motor Vehicle Releases for June 2008 as presented. Motion unanimous with those in attendance (4-0).

The Tax Assessor stated that the bills for 2008 will be sent out by the first week of August 2008 and these are due January 1, 2009.

Avery County Ranger's Office – Joe Shoupe

Joe Shoupe, Avery County Ranger, presented the annual report for the Avery County Ranger's Office for fiscal year 2007-2008. Mr. Shoupe explained that there were 98 wildfire calls of which 69 were false alarms. There were 29 fires that burned approximately 9.5 acres and quick aggressive response by the Volunteer Fire departments and the Forest Service protected approximately 24 structures valued at \$5,600,000. Mr. Shoupe stated that 2,900 permits were issued for the FY 2007-2008. Mr. Shoupe explained the training that firefighters were involved in and the forest management program to assist landowners with the management of their forests. Mr. Shoupe advised that he had been working with the Fire Association for some amendments to the Subdivision Ordinance with regards to narrow, steep winding roads and that the Board should look at the Subdivision Ordinance very closely.

Sheriff Kevin Frye

Budget Amendment

Kevin Frye, Sheriff, stated that the salary for the Domestic Violence Officer had been paid 100% by a grant that the Avery County Sheriff's Department had received and that the Domestic Violence Officer's salary had already been budgeted for the 2008/2009 fiscal year. Sheriff Frye stated that he would have an excess in his budget and wanted to put \$47,000 of the excess in capital outlay to buy new vehicles and the other \$10,000 be left in the salary line item. Sheriff Frye stated that the \$10,000 would be divided with the K-9 deputies for upkeep and care of the two canines and \$1,000 for 5 SRT members for training. Chairman Poteat questioned if this \$57,000 was granted to be used for salaries can it legally be used for capital outlay. Sheriff Frye stated that the \$57,000 of grant money would be put in the salary line item and the money allocated for the salary in the budget

would be used for capital outlay. The County Manager advised that if the Board did not honor the request by Sheriff Frye that would be \$57,000 in the Sheriff's budget to apply to overtime and other things that might come up in the future; if the Sheriff's request is honored then the number of vehicles will increase and compensation to employees and next year the County would have to pick up those expenses. Sheriff Frye stated that there was not a monetary match for this grant but equipment that the Sheriff's department already has is the match. Sheriff Frye advised that this grant is a year by year grant and at the time of the budget the Sheriff had not gotten approval for this grant. Scott Heath questioned Sheriff Frye if the Sheriff felt that buying vehicles was the best use of the extra money that he now has in his budget. Sheriff Frye stated that trying to get salaries up was a number one priority and then vehicles was the second priority and that he felt this was the best use of the extra money that he had in his budget. Chairman Poteat stated that the Sheriff and Tim Greene, Finance Officer, needed to work out the "wrinkles" on this issue. Mr. Heath cautioned Sheriff Frye that the spending of money for the upkeep of the animals would have to be continued next year and this would have to be included in the budget next year.

Motion by Susan Pittman and second by Phyllis Forbes to recognize the receipt and expenditure of \$57,000 grant money contingent upon the findings of the County Manager, Finance Officer and Sheriff. Motion unanimous with those in attendance (4-0).

Dangerous Dog Statute

Sheriff Frye stated that the Dangerous Dog Statute was not an animal control ordinance but is just complying with the N.C. General Statute. Sheriff Frye advised that when there are potentially dangerous dogs in the community that are threatening people and are vicious that nothing can be done about these dogs. Sheriff Frye said that there is not a lot that can be done about these dogs unless the Board appoints someone to designate a dog as a "dangerous dog" and there has to be a Board to hear any appeals. Sheriff Frye stated that the Sheriff's Department is the department that answers the calls about dangerous dogs and so he would request that the Sheriff be designated as the person to determine if the dogs are "dangerous dogs". Michaelle Poore, County Attorney, advised that a Board would need to be appointed to hear the appeal. The County Attorney stated that a "dangerous dog" is one that is kept for dog fighting or has inflicted serious injury or killed and the statute sets forth that the dog must be kept in a pen on the owner's property or must be on a leash and muzzled if off the owner's property. Discussion regarding the animal shelter board. Gerald Arthur stated that he would like to be a part of that Board and that he was meeting with the Town of Newland tomorrow to talk about being the animal control officer for Newland. The County Attorney advised that the dog owner would have to give notice of appeal within 10 days that their dog is deemed "dangerous" and they need to know who to contact about the appeal process. Scott Heath questioned if there were any situations at this time regarding dangerous dogs. Sheriff Frye advised there are three or four situations in Avery County at this point. Scott Heath stated that at this point the Board needed to appoint the office of Sheriff to deem whether or not the dogs are dangerous and appoint the Board of Commissioners as the interim Board to hear appeals at this time until a board can be designated.

Motion by Scott Heath and second by Susan Pittman that in order to meet NC General Statutes Chapter 67 "Dogs and Dangerous Dogs" that the Board hereby designates the Sheriff of Avery County to deem a dog "dangerous or potentially dangerous" and further a temporary Board of Appeals be established which would be the seated Board of Commissioners at that time. Motion unanimous by those in attendance (4-0).

Scott Heath stated that there is a very comprehensive animal control officer draft and that it needs to be noted that is out there and at some point in time it is something the County may need.

Resolution for Mutual Aid Agreement-Sheriff

Sheriff Frye advised that he found out this year that a Resolution had to be done for Mutual Aid agreements to be valid and to enter into mutual aid agreements with other counties and towns. This has to be done every year. The County Manager questioned if one of Sheriff Frye's deputies is under the direct control of another department and there is a liability issue who would be responsible. Sheriff Frye stated if the deputy did something on his own the deputy would be liable but if he was directed by another department outside of the County that commanding officer would be liable.

Motion by Phyllis Forbes and second by Scott Heath to adopt a Resolution for a policy for Mutual Aid Agreement with other law enforcement agencies. Motion unanimous with those in attendance (4-0).

County Manager Updates

The County Manager stated that a contract was signed previously with Beeson, Lusk and Street for Phase II of the Courthouse and Jail Renovation and now that the County has retained the services of a consultant in the field of jail construction that the contract has been revised and an addendum added that includes the wording that "Avery County will procure the services of a jail consultant to advise at the County's expense". The County Manager said with the Board's permission that he would execute the second contract and void the first contract.

Consensus by the Board to have the County Manager execute the second contract with Beeson, Lusk and Street and void the first contract.

EMS Substation – Green Valley

The County Manager advised that the substation in Green Valley was 99% complete; the garage was completed, paving was completed, water hooked up and septic system hooked up and there were just a few small items that needed to be completed. The County Manager stated that Jerry Turbyfill, EMS Director, was working on employees to man the station.

New Animal Shelter

Ann Thompson, Friends of the Animal Shelter, stated that hopefully soon there would be a ground breaking and that in the next couple of weeks there would be aggressive fund raising going on.

Fire Association – Junior Sluder

Junior Sluder came before the Board to remind the Board to review with their homeowner's insurance companies to see how much savings occurs with the ratings of the fire departments. Mr. Sluder stated that the fire departments saved the taxpayers money by the savings that occurs on their homeowner's insurance.

Accountability to Non-Profit Organizations

The County Manager stated that there needed to be accountability to the non-profit organizations that the County allocates public funds to each year. There are some agencies that the County receives an audit report on yearly. The County Manager said that there needed to be an agreement that stipulates that upon request that the accountability of public funds be made available and at the end of the fiscal year a full account of the public funds be presented to the Board of Commissioners during the budget process. The County Manager stated that he would like to work with the County Attorney on a Memorandum of Understanding for accountability of public funds to be in place this current fiscal year.

Consensus by the Board to allow the County Attorney and County Manager to develop a Memorandum of Understanding for accountability of public funds for non-profit organizations and present at the next board meeting.

E911 Grade Change

The County Manager stated that in 2003 the 911 telecommunicators were making somewhere around \$17,000 to \$18,000 a year and that was totally unacceptable and the Board agreed to raise those salaries and have made significance progress since that time but there has been an unusually high turnover rate and that was because the majority of the employees were part-time telecommunicators and once the certifications and training were accomplished the telecommunicators would seek employment in other counties. The County Manager advised that the work schedule has been rearranged and by going to a 12 hour shift have reduced the number of staff significantly. This will allow cutting out of the majority of the part-time positions by creating more full-time positions and there is a third position which will be a part-time position which will fill in at the peak times so instead of 3 people working 3 shifts there will be 2 people working 2 shifts with an interim. The County Manager stated that he strongly recommended that the Board approve a one grade increase for the E911 which would include the telecommunicators, trainers and assistant director. Tim Greene, Finance Officer, advised that a one grade increase with the new schedule in place would be over \$20,000 savings. Susan Pittman questioned if two people would be enough. The County Manager stated that most of the time two people would be enough and there would be the third part-time person to fill in at peak times.

Motion by Susan Pittman and second by Phyllis Forbes to approve a one step grade increase for E911 which includes the telecommunicators, trainers and assistant director. Motion unanimous with those in attendance (4-0).

Soil and Water Conservation Position

The County Manager advised that Gerald Arthur had called the County Manager last week with a serious concern that was happening with the Natural Resources Conservation Position in Avery County. The County Manager stated that across the State there is a reduction in force in that organization and it is all based on seniority and someone has decided that instead of Avery, Mitchell and Yancey Counties having three full time agents that now there will be two and the person in Mitchell and the person in Yancey has more seniority than Christine Vance in Avery County and she has to either quit her job or transfer to Asheboro. Avery County has procured and expended more money on access roads, Christmas trees and streams, etc. than Mitchell and Yancey both put together. The County Manager stated that a Resolution had been drafted to send to the appropriate authorities if the Board approved it.

Gerald Arthur spoke to the Board about the NRCS position. Mr. Arthur stated that Avery County had already lost the farm services agency back a few years ago and now the Regional Director for NRCS has decided to move Chris Vance to Asheboro. The last several flood monies has come from requests from Chris Vance. The NRCS position is federally funded. Mr. Arthur advised that Avery County will have a technician part-time but neither counties, Yancey or Mitchell, have procured more money than Avery County combined. Chairman Poteat suggested that this is the time to call on Patrick McHenry and Elizabeth Dole to try to help in this situation. Chairman Poteat stated that the Resolution needed to be more forceful with some comparison to the funding that the neighboring counties have obtained. Chairman Poteat asked the County Manager to be a part of a conference call with the Regional Director at 8:00 a.m. on July 8, 2008 at the Soil and Water Conservation office.

Cranberry Water Project

The County Manager stated in order to expedite the administrative process necessary for the Cranberry Water Project, the Board needs to appoint Town of Elk Park Mayor Darlene Hicks to be Avery County's representative to request funds on the counties behalf. The money will still be sent to the County but it will just expedite the administrative process.

Motion by Phyllis Forbes and second by Scott Heath to appoint Town of Elk Park Mayor, Darlene Hicks, as Avery County's representative for the Cranberry Water Project. Motion unanimous with those in attendance (4-0).

Finance Officer Report – Tim Greene

Budget Amendment # A09-01

The Finance Officer reported that in the 2008/2009 budget the County's portion of the Recreation Land purchase was budgeted but the entire amount should have been budgeted. This is the State's match.

Motion by Susan Pittman and second by Scott Heath to approve the budget amendment Capital Outlay of \$383,651 Debit and Park Foundation Grant of \$383,651 Credit. Motion unanimous with those in attendance (4-0).

Budget Amendment #A09-02

A grant was obtained by Sondra Austin, Administrative Assistant to the County Manager, from the Department of Transportation to pay for paving the driveway at the Green Valley EMS Substation and this will be reimbursable for \$10,800. The total cost of the project will be slightly over \$12,000.

Motion by Phyllis Forbes and second by Scott Heath to approve the budget amendment for a Capital Outlay - Paving debit of \$10,800 and equal Credit to the North Carolina Department of Transportation Grant. Motion unanimous with those in attendance (4-0).

Budget Amendment #A09-03

The grant is going through for the Town of Elk Park from the NC Division of Environmental Health Public Water Supply Section to be used for the design and construction of an extension of the Elk Park water system and extra storage capacity for the Cranberry Community. The monies will come into Avery County and then forward on to the Town of Elk Park. Projected total cost of the project is \$988,000.

Motion by Scott Heath and second by Phyllis Forbes approve the budget amendment a debit of \$988,000 and an equal credit to the Environmental Health Grant accompanied by a Municipality Allocation Debit of \$988,000 with the same amount being credited to Fund Balance – Appropriated. Motion unanimous with those in attendance (4-0).

Budget Amendment #A09-04

The Agricultural Department received a NC Agricultural Development & Farmland Preservation Trust Fund grant in the amount of \$16,500 to be used for plan development, signage, and marketing. The County will need to match 30% of the total or \$4,950.

Motion by Susan Pittman and second by Phyllis Forbes to approve the budget amendment of NC Agricultural Dev. Grant Debit of \$16,500 and NC Agricultural Dev. Grant Credit of \$11,550 and Fund Balance Credit of \$4,950. Motion unanimous with those in attendance (4-0).

County Attorney Report- Michaelle Poore

The County Attorney stated she did not have any items that required the Board's attention.

Closed Session

Motion by Scott Heath and second by Susan Pittman to go into Closed Session at 6:00 p.m. in accordance with NC G.S. 143-319.11 (a) (6) regarding Personnel matters. The Board, the County Manager, the County Attorney and the Clerk are invitees. Motion unanimous with those in attendance (4-0).

The Board came out of Closed Session at 6:24 p.m. The Chairman advised that no vote was taken during Closed Session.

Approval of Minutes

Motion by Susan Pittman and second by Phyllis Forbes to approve the minutes for Regular Session June 2, 2008. Motion unanimous with those in attendance (4-0).

Agenda Consent Items

Agenda Consent Items adopted by consensus of the Board.

Adjourn

Motion by Phyllis Forbes and second by Scott Heath to adjourn this meeting at 6:30 p.m. Motion unanimous with those in attendance (4-0).

**Kenny Poteat, Chairman
Avery County Board of Commissioners**

ATTEST: _____
Cindy Turbyfill, Clerk